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THIRD COAST BROADCASTING, INC.
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FILE

December 19, 1991

Donna R. Searcy, Secretary
Federal Communications Commission
Washington, D.C. 20554

VIA HAND DELIVERY


RE: MM Docket No. 87-268; Notice of Proposed Rule Making
Adopted October 24, 1991, Released November 8, 1991

Dear Ms. Searcy:

Enclosed please find the original and five copies of Comments to Notice of Proposed Rule Making by Third Coast Broadcasting, Inc. to the referenced docket number. Please file same in your usual manner.

Thank you for your courtesies and assistance in this matter.

Very truly yours,


ROBERT W. FISHER
President

Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

FCC 91-337

In the Matter of)
Advanced Television Systems)
and Their Impact upon the)
Existing Television Broadcast)
Service)

MM Docket No. 87-268

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Federal Communications Commission
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**COMMENTS TO NOTICE OF PROPOSED RULE MAKING
BY THIRD COAST BROADCASTING, INC.**

The following is a comment to Notice of Proposed Rule Making MM Docket 87-268 (FCC 91-337), paragraph IV "Spectrum Issues", B "LPTV and Translator Services", paragraph 32.

I. Introduction

The Low Power Television service was created in 1982 with the final rule of BC Docket 78-253, which defined the rules under which LPTV would operate, the protection criteria which would be given land mobile/UHF TV sharing services and full service stations, and the definition of the "secondary" status of LPTV in relation to these two services. Low power television was created with intentionally limited coverage areas with the provision of "programming diversity" and local interest programming in mind. In this final rule, the FCC put no limitations of geographic location on the LPTV stations, other than those which would be unavailable, due to interference protection of full service stations. LPTV stations, with their limited coverage areas are well adapted to providing "community" type service which responds to the interests of small to medium sized towns, as well as suburban cities whose identity may be merged within large urban centers.

As the LPTV industry has developed, it has provided diverse and local interest programming to underserved populations in the U.S.. These populations consist of not only the rural areas which may have few television stations (where the primary television source is cable or satellite), but also the urban and suburban populations which receive additional programming diversity and local interest programming from LPTV stations due to the ability of these stations to respond to underserved ethnic and special interest needs rather than the regional interests which are necessary for full service stations.

As an example of the type of diversity and local interest programming which some LPTV stations provide, there are five LPTV and translator stations in the Houston, Texas area which provide the following programming:

- | | |
|-------|--|
| K56DP | Provides educational programming to the Houston suburban cities of Stafford and Missouri City. |
| K33DB | Provides Spanish language programming to the south Houston Hispanic populations. |
| K55FV | Provides programming diversity with a "shopping channel" |

format to the Houston area.

K04NW Provides programming diversity with an alternative technology interactive video service to the south Houston area.

K05IL Provides local interest programming to the Houston suburban area of Clear Lake City. This station has, in the past, provided NASA programming to the Clear Lake/Johnson Space Center area during NASA space missions.

These LPTV stations, as well as others across the country, operate in the public interest in major market areas.

The Notice of Proposed Rule Making MM Docket 87-268 (FCC 91-337) proposes the creation of a **new type of video transmission technique (HDTV)**, proposes to issue a second 6 MHz channel to each existing (and qualified future) broadcaster for HDTV, proposes that this service is automatically declared a "primary" use of the UHF spectrum, proposes that these additional frequencies would "displace" LPTV stations in major markets, and indicates that these changes would be made without any consideration of the impact on LPTV stations.

To further clarify what is meant by "displace", this means that when a channel would be allotted for an HDTV frequency which would receive or cause interference to an LPTV station (perhaps even the same channel as the LPTV station) the LPTV station on that channel would be required to apply for another channel and / or geographic area, or, if none is available, permanently go off the air. In major markets, due to the large number of full service broadcasters and the large number of required HDTV frequencies, it is very unlikely that alternative channels would be available, under the present rules. The result of this would be that most, if not all LPTV stations in major markets would have to go off the air.

Although the NPRM makes accommodations in this proposal for television broadcast licensees, construction permittees, applicants, and those who have, in effect, applied to be applicants (requests for allocations of a TV channel to a specific community), it does not consider the impact of the HDTV transition on the LPTV stations.

I feel that the adoption of this proposed rulemaking with the subsequent displacement of LPTV stations would decrease the diversity of programming in major markets and would benefit large businesses while eliminating small companies (LPTV stations) which provide television service in the public interest.

I believe that the lack of consideration of the impact of the Proposed Rulemaking on LPTV licensees who are serving the public interest is unfair, and the possible requirement of major market LPTV stations to go off the air without consideration of the LPTV interests is unreasonable.

II. LPTV Stations Should not be Unreasonably Forced Off the Air by HDTV.

A. BC 78-253 LPTV Defined as Secondary to Television Broadcast. When the LPTV service was created under the final rule of Docket BC 78-253, it was defined, in a large part, not on its own, but by its "secondary" relationship to Television Broadcast and Landmobile-UHF sharing services. The LPTV station was required to protect all Television Broadcast stations from interference. This secondary relationship determined the location, power, antenna height, and antenna directionality of any LPTV station which was to be authorized for construction, in reference to the Television Broadcast stations which they were required to protect. Once constructed, if the LPTV station caused actual, incurable, interference to a television broadcast station, it was required to change power, channel, or location to resolve the problem or cease transmitting. This requirement very clearly defined the nature of the LPTV service and its secondary status to the Television Broadcast service. Nowhere in BC 78-253 is there any indication that LPTV would be required to be secondary to any other services other than what was then defined as Television Broadcast and Landmobile-UHF TV sharing services.

B. BC 78-253 Referred to Television Broadcast as was Defined by 47 C.F.R. Part 73. The Television Broadcast service with which LPTV was defined as being secondary (as referred to in BC 78-253) was the Television Broadcast service which was (and is) the currently authorized TV system. This service is very clearly defined under part 73, with specific power output levels, specific allocation spacing rules, specific taboo channels, and, under the LPTV rules, specific interference protection levels and contours. Under this service, due to these specific definitions, basic presumptions can be made, with respect to how many channels may be located within specific distances and what protection requirements must be met by LPTV stations.

C. LPTV Stations had a Reasonable Degree of Assurance of not being Forced off the Air Under BC 78-253. Under the rules of BC 78-253, and the referenced Television Broadcast rules, specific fill-in areas were created which could accommodate LPTV stations, based on co-channel and "taboo" channel Television Broadcast spacing requirements. In the event that an LPTV channel was forced to resolve an incurable interference problem associated with a Television Broadcast upgrade or geographic move, it could be reasonably presumed that another channel would possibly be available to accommodate the displaced LPTV channel. In the event that a new allocation was made which would displace the LPTV station, the LPTV station had the assurance of recourse to displacement in the form of upgrading of its station by "...filing a competing full service application". These are the rules and remedies under which LPTV stations were created.

D. LPTV was not Established as Secondary to the New and Incompatible HDTV Technology. I believe that it is apparent that the currently proposed HDTV was not what was considered when LPTV was established to be a secondary service to Television Broadcast. Although the Commission is considering awarding an additional channel with this new HDTV technology to every full service

Television Broadcaster in the U.S., out of a sense of fairness, I feel that it must be admitted that LPTV was never established in BC 78-253 as being secondary to HDTV. Nowhere in BC 78-253 was it stated that LPTV would be secondary to the then existing Television Broadcast service and any future technology which may arise, or that LPTV would be secondary to any needs of Television Broadcast in the TV spectrum (indeed, LPTV is not secondary to Television Broadcast UHF STL frequency requirements). I feel that the retroactive inclusion of the new HDTV service into the category which must be protected by LPTV stations, without consideration of LPTV interests, is unfair and would severely impact major market LPTV stations, most of which are small businesses. The FCC should not summarily dismiss LPTV displacement concerns by simply stating that LPTV is secondary to full service. I believe that this represents the limitations of the LPTV secondary status being taken way beyond what was intended under BC 78-253. Although the NPRM states that LPTVs in major markets would be displaced to some degree, this would be like being pregnant to some degree. The LPTV stations which would be forced off the air without consideration would not feel the "some-ness" of the situation; they would be completely off the air. **I feel that the LPTV stations deserve a voice in the HDTV transition process and that reasonable accommodations should be made to LPTV stations which would minimize the displacement impact.**

F. LPTV Should be Considered and Protected in the HDTV Transition. To avoid misunderstanding, I do not believe that the solution to the problems of the HDTV transition is to pretend that the LPTV service is a primary service with regards to the Television Broadcast service, or to request that time be stopped and the technological advances of HDTV should not be implemented. Nor do I believe that the HDTV service should be a secondary or co-equal service to LPTV. Instead, I feel that the LPTV stations who are providing public service should be protected to the highest degree possible in the HDTV transition, should not be unreasonably displaced from the air, and should be permitted to participate in the transitional period as well as the future implementation of the HDTV technology. I feel that these objectives could be achieved by the FCC in a variety of ways, primarily with policy and technical implementations.

G. Channel Allotments could be made which would Minimize the Displacement Impact on LPTV. Although computer modelling work has apparently already been done which predicts the channel availability in major markets for HDTV, I feel that the same type of modelling should be done with the consideration of minimizing the LPTV displacements. The effect of this modelling would be that if there were, for example, 18 available channels in a market for HDTV, and a need for only 14 HDTV channels in that market, the 14 would be chosen which would not displace (or minimize the displacement of) LPTV stations. I feel that when the allotments are made, there should be a freeze on the construction of new NTSC (full service and LPTV) stations in the major markets. This would prevent the construction of obsolete facilities, would encourage the HDTV transition, and would possibly provide unconstructed NTSC channels (full service and LPTV) to which a displaced LPTV could move. The LPTV construction permits which are frozen under this scheme could be re-activated after the full service broadcasters yield their NTSC channel.

III. Technical Solutions Could Minimize the Impact on LPTV.

H. Displaced LPTV Stations should be Permitted to Make Changes in Facilities without Competing Applications. The ability of a displaced LPTV station to make major changes in its facilities under "minor change" rules is currently fundamental to its ability to have assurance of continuing service. Under the HDTV transition, I feel that it will be even more important. I fully endorse the continuation of this policy.

I. HDTV Interference Protection Requirements could be Reasonably Established to Minimize the Impact on LPTV. With the assignment and implementation of the HDTV technology, the interference "robustness" of the HDTV signal should be analyzed in relation to LPTV adjacent channel, taboo channel limitations and +/- 5 channel receiver induced third order intermodulation effect interference. In the event that the HDTV sets are less susceptible than NTSC television sets, the protection distances and contours should be predicted accordingly. I feel that there would be no reason to continue the same protection levels for HDTV as for NTSC if the potential for interference was simply not there.

J. LPTV to NTSC Interference Protection Requirements should be Re-evaluated. All of the interference protection requirements of LPTV were based on an evaluation of television performance standards in 1974. These standards determined the levels and ratios of signal strengths which caused interference on a the average television in 1974. I feel that the average television quality may have improved dramatically in the last 18 years, and that the interference protection requirements should be revised to levels which correspond to realistic requirements, based on the current technical standards of televisions. Even within BC 78-253 in 1982, it was noted that television receivers were considerably better than those studied in 1974 and it was indicated that there would likely be an ongoing improvement. With the advent of integrated circuits and low-noise transistors in television sets, I feel LPTV should be held to more realistic adjacent channel, taboo channel and +/- 5 channel interference standards.

K. The "32 KM" Rule should be Re-evaluated. Under the current rules, an LPTV station is prohibited from locating within 32 Kilometers from a Television Broadcast station which operates within 5 channels of the LPTV station. This rule is to prevent the creation of interference caused by receiver induced third order interference, a condition where two signals combine in the television receiver and produce a perceived third interference channel on the receiver. This combination of frequencies and the interference frequency created is determined by the performance characteristics of the television, the signal strengths of the two television signals, and the specific frequencies of the TV channels. In many cases this interference is purely theoretical, may occur only on an unused (and un-watched) channel, or may occur in such a small geographic area that it would have negligible impact on any viewers. However, because it geographically blocks each LPTV channel on 8 not otherwise restricted channels, I feel that re-evaluation of the 32 KM. rule poses one of the largest potentials for reducing the impact on displaced LPTV stations.

L. LPTV Adjacent Channels should be Permitted to Co-Locate Facilities. The current LPTV rules require the protection of LPTV adjacent channel contours. This reduces the number of stations which can operate within a given area and restricts the geographic area where a displaced LPTV station could locate. The contour protection requirement was to prevent the signals of one nearby station from combining in the television receiver and overriding another station's signals. However it has been shown in the MMDS and ITFS services (where adjacent channel co-location is permitted), if the two transmitters are co-located, the ratios of the signal strengths are constant, and the transmitters do not create the localized interference which is normally associated with adjacent channel situations. Provided the LPTV stations can make a showing that sufficient transmitter intermodulation protection techniques are provided (ferrite circulators or antenna to antenna isolation) I feel that LPTV adjacent channels should be permitted to co-locate.

I feel that with policy and technical issues as proposed, LPTV should be permitted a voice in the HDTV transition and LPTV stations should be protected as much as is reasonably possible in the HDTV transition.

FOR THE RECORD
7/10/81